

**UNITED STATES BANKRUPTCY COURT**

Eastern District of California

Honorable Christopher D. Jaime  
Bankruptcy Judge  
Modesto, California

**May 10, 2022 at 1:00 p.m.**

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1. [19-90808](#)-B-13 JOSE/LUCIA ROMO MOTION TO MODIFY PLAN  
[MSN](#)-2 Mark S. Nelson 3-22-22 [[45](#)]

**Final Ruling**

The motion has been set for hearing on the 35-days' notice required by Local Bankruptcy Rule 3015-1(d)(2), 9014-1(f)(1), and Federal Rule of Bankruptcy Procedure 3015(g). The failure of the respondent and other parties in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(B) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). No opposition was filed. The matter will be resolved without oral argument. No appearance at the hearing is required.

The court's decision is to permit the requested modification and confirm the modified plan.

11 U.S.C. § 1329 permits a debtor to modify a plan after confirmation. The Debtors have filed evidence in support of confirmation. No opposition to the motion was filed by the Chapter 13 Trustee or creditors. The modified plan complies with 11 U.S.C. §§ 1322, 1325(a), and 1329, and is confirmed.

The motion is ORDERED GRANTED for reasons stated in the minutes. Counsel for the Debtors shall prepare an appropriate order confirming the Chapter 13 Plan, transmit the proposed order to the Chapter 13 Trustee for approval as to form, and if so approved, the Chapter 13 Trustee will submit the proposed order to the court.

The court will issue an order.

**May 10, 2022 at 1:00 p.m.**

### **Final Ruling**

The motion has been set for hearing on less than 28-days notice. Local Bankruptcy Rule 9014-1(f)(2). Parties in interest were not required to file a written response or opposition.

The court has determined that oral argument will not assist in the decision-making process or resolution of the motion. See Local Bankr. R. 9014-1(h), 1001-1(f). This matter will therefore be decided on the papers.

The court's decision is to **conditionally grant the motion to sell and continue the matter to May 17, 2022 at 1:00 p.m.**

The Bankruptcy Code permits Chapter 13 debtors to sell property of the estate after a noticed hearing. 11 U.S.C. §§ 363(b) and 1303 (which allows debtor to sell). Debtors propose to sell the property described as 4537 Arbolada Drive, La Grane, California ("Property").

Proposed purchasers Miguel De Loza and Maria Guadalupe De Loza have agreed to purchase the Property for \$29,000.00. The estimated settlement date is May 6, 2022 and the purchase will be conducted as-is. The transaction is an arms-length transaction and the sale price of \$29,000.00 is the fair market value of the property, according to Debtors' supplemental declaration.

The chapter 13 Trustee has filed a response indicating that the Debtors have not provided a copy of the estimated closing statement with their motion papers, and that without the ability to review the estimated closing statement, the impact of the sale on plan feasibility and which secured claims are being paid by escrow cannot be determined. Further, the Trustee states that Debtors' motion and declaration do not indicate that the sale is an arms' length transaction, and he requires clarification as to whether this is an arms' length transaction to ensure that the sale price of \$29,000.00 is the fair market value of the property. Dkt. 33.

Subsequent to the Trustee filing his response, Debtors have filed a supplemental declaration and response to the Trustee's response. In their supplemental declaration and response, the Debtors state that they inadvertently failed to indicate in their original declaration that the sale is, in fact, an arms' length transaction and the sale price of \$29,000.00 is the fair market value of the property. Dkt. 37. Further, Debtors filed a supplemental exhibit in support of the motion to sell, and included a copy of the estimated seller's settlement statement. Dkt. 35. With the supplemental declaration and copy of the estimated seller's settlement statement, the basis for Trustee's response has been alleviated.

Based on the evidence before the court, the court determines that the proposed sale is in the best interest of the estate. The motion is conditionally granted.

The Debtors have stated that the following provisions be included in the order approving the sale of real property:

1. The sale is approved provided all liens, if any, are paid in full in a manner consistent with the plan, notwithstanding relief of stay that has been entered.
2. The Trustee shall approve the escrow and title company to be used in connection with the transaction.
3. The Trustee shall approve the estimated closing statement to be prepared in connection with the sale, and when approved, disbursement may only be made in accordance with the approved estimated closing statement.

### **Conditional Nature of this Ruling**

Because the motion has been filed, set, and served under Local Bankruptcy Rule 9014-1(f)(2), any party in interest shall have until 5:00 p.m. on Friday, May 13, 2022, to file and serve an opposition or other response to the motion. See Local Bankr. R. 3007-1(b)(2). Any opposition or response shall be served on the Chapter 13 Trustee and creditor by facsimile or email.

If no opposition or response is timely filed and served, the motion will be deemed granted for the reasons stated hereinabove, this ruling will no longer be conditional and will become the court's final decision, and the continued hearing on May 17, 2022, at 1:00 p.m. will be vacated.

If an opposition or response is timely filed and served, the court will hear the motion on May 17, 2022, at 1:00 p.m.

3. [19-90448](#)-B-13 MICHAEL/JANET NIELSEN CONTINUED MOTION TO APPROVE  
[DCJ](#)-2 David C. Johnston LOAN MODIFICATION  
4-12-22 [[46](#)]

## Final Ruling

This matter was continued from May 3, 2022, to allow any party in interest to file an opposition or response by 5:00 p.m. Friday, May 7, 2022. Nothing was filed. Therefore, the court's conditional ruling at dkt. 54, granting the motion, shall become the court's final decision. The continued hearing on May 10, 2022, at 1:00 p.m. is vacated.

The motion is ORDERED GRANTED for reasons stated in the minutes at dkt. 54.

The court will issue an order.